

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL J. RILEY, JR.,

Plaintiff,

-against-

CITY OF BEACON POLICE DEPARTMENT,
et al.,

Defendants.
-----X

08 Civ. 4016 (GEL)

ORDER

GERARD E. LYNCH, District Judge:

A review of court records indicates that the complaint in this action was filed on April 29, 2008, and that no proof of service of the summons and complaint has been filed. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the Court, upon motion, or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice, as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the Court shall extend the time for service for an appropriate period.

On October 1, 2008, the Court issued an order noting that plaintiff had not been mailed the documents necessary to effectuate service on the defendants and, accordingly, granting the plaintiff an additional ninety days, until January 30, 2009, to serve the summons and complaint on the defendants. However, a copy of the Court's October 1, 2008, order as well as documents necessary to effectuate service were returned as undeliverable with no forwarding address on October 15, 2008.

On December 12, 2008, plaintiff filed a change of address with the Court noticing that his address was now 10 S. Cedar Street, Beacon, New York, 12508. Although the plaintiff has now provided a current address to this Court, the return of the October 2008 correspondence demonstrates that he has not kept his address current, as he is obliged to do under the Court's rules.


Nevertheless, the plaintiff will be afforded one last chance to preserve his action. The plaintiff is directed to serve the summons and complaint on the defendants on or before March 27, 2009. The Pro Se Office is directed to mail plaintiff the materials required for him to

effectuate service. If service has not been made on or before March 27, 2009, and if plaintiff fails to show cause, in writing, why service has not been made, the complaint may be dismissed, for failure to prosecute, pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure. Further extensions will be strongly disfavored.

Plaintiff is reminded that he may contact the Pro Se Office for this judicial district at 500 Pearl Street, Room 230, New York, New York 10007, telephone number (212) 805-0175, for any procedural assistance he may require.

SO ORDERED:

Dated: New York, New York
February 3, 2009



GERARD E. LYNCH
United States District Judge